

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SEAN CHAPDELAINE,

Plaintiff,

v.

INSTITUTIONAL SERGEANT OF R&R,
et al.,

Defendants.

No. 1:23-cv-01396 GSA (PC)

ORDER DIRECTING PLAINTIFF TO SHOW
CAUSE WHY THIS CASE SHOULD NOT BE
DISMISSED

PLAINTIFF'S SHOWING OF CAUSE DUE
NOVEMBER 13, 2023

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. For the reasons stated below, Plaintiff will be ordered to show cause why this case should not be dismissed for failure to obey a court order.

I. RELEVANT FACTS

Plaintiff's complaint was docketed on September 25, 2023. ECF No. 1. The same day, Plaintiff was sent prisoner new case documents and the Court's consent or decline order. In addition, on October 4, 2023, Plaintiff was ordered either to submit an application to proceed in forma pauperis or to pay the filing fee. ECF No .3.

On October 10, 2023, the new case documents and the consent order were returned to the Court as undeliverable. On October 11, 2023, a change of address filed by Plaintiff was

1 docketed. ECF No. 4. The same day, Plaintiff was resent the new case documents and the order
2 directing him either to file an application to proceed in forma pauperis or to pay the filing fee.

3 On October 17, 2023, the Court's order directing Plaintiff either to file an application to
4 proceed in forma pauperis or to pay the filing fee was returned to it as "Undeliverable, RTS,
5 Refused, Unable to Forward, Not Located at VSP." Shortly thereafter, on October 23, 2023, the
6 new case documents and consent order were returned to the Court as "Undeliverable, Inactive
7 Offender, Return to Sender." To date, Plaintiff has not responded to the Court's orders.

8 II. DISCUSSION

9 "Although we construe pleadings liberally in their favor, pro se litigants are bound by the
10 rules of procedure." Ghazali v. Moran, 46 F.3d 52, 54 (9th Cir. 1995) (citation omitted). They
11 are subject to the same rules as those who are represented by attorneys, and they are not to be
12 treated more favorably than parties with attorneys of record. See L.R. 183(a); see also Jacobsen
13 v. Filler, 790 F.2d 1362, 1364 (9th Cir. 1986). As a result, a pro se litigant's failure to comply
14 with the Federal and Local Rules as well as all other applicable law may be grounds for dismissal
15 or any other sanction. See L.R. 183(a).

16 In this case, Plaintiff has been ordered to return the Court's consent form and to either file
17 an in form pauperis application or to pay the filing fee. The orders have been sent on him twice –
18 once in September 2023 (see ECF Nos. 2, 3) and once this month (see October 11, 2023 docket
19 entry indicating re-service of Court orders by mail).

20 To date Plaintiff has not responded to either order. As a result he has failed to follow
21 court rules, and he has failed to comply with the Court's orders. Therefore, he will be ordered to
22 show cause why this matter should not be dismissed for failure to obey court orders. See Fed. R.
23 Civ. P. 41(b); L.R. 110.

24 Accordingly, IT IS HEREBY ORDERED that:

25 1. The Clerk of Court shall send Plaintiff new copies of the Court's consent or decline
26 order and its application to proceed in forma pauperis;

27 2. Plaintiff is ordered to SHOW CAUSE why this matter should not be dismissed for
28 failure to obey a court order;

1 3. Plaintiff's showing of cause shall be filed by **November 13, 2023**, and

2 4. Plaintiff's showing of cause may be discharged by filing his consent or decline form
3 with the Court and either filing a completed application to proceed in forma pauperis or paying
4 the filing fee in full by **November 13, 2023**.

5
6
7 IT IS SO ORDERED.

8 Dated: **October 27, 2023**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE